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HOUSE BILL 1194

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

LISA L. LUTZ

AN ACT

RELATING TO TAXATION; AMENDING THE LEASED VEHICLE GROSS RECEIPTS
TAX ACT TO EXEMPT FROM THE LEASED VEHICLE SURCHARGE THE LEASING
OF CERTAIN RENTAL VEHICLES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-14A-2 NMSA 1978 (being Laws 1991,
Chapter 197, Section 6, as amended) is amended to read:

"7-14A-2. DEFINITIONS. -- As used in the Leased Vehicle
Gross Receipts Tax Act:

A. "department" means the taxation and revenue
department, the secretary of taxation and revenue or any
employee of the department exercising authority lawfully
delegated to that employee by the secretary;

B. "engaging in business" means carrying on or
causing to be carried on the leasing of vehicles with the

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1 purpose of direct or indirect benefit;

2 C. "gross receipts" means the total amount of money
3 or the value of other consideration received from leasing
4 vehicles used in New Mexico, but excludes cash discounts allowed
5 and taken, leased vehicle gross receipts tax payable on
6 transactions for the reporting period, gross receipts tax
7 payable pursuant to the Gross Receipts and Compensating Tax Act
8 on transactions for the reporting period and taxes imposed
9 pursuant to the provisions of any local option gross receipts
10 tax, as that term is defined in the Tax Administration Act, that
11 is payable on transactions for the reporting period and any type
12 of time-price differential. Also excluded from "gross receipts"
13 are any gross receipts or sales taxes imposed by an Indian
14 nation, tribe or pueblo, provided that the tax is approved, if
15 approval is required by federal law or regulation, by the
16 secretary of the interior of the United States, and provided
17 further that the gross receipts or sales tax imposed by the
18 Indian nation, tribe or pueblo provides a reciprocal exclusion
19 for gross receipts, sales or gross receipts-based excise taxes
20 imposed by the state or its political subdivisions. In an
21 exchange in which the money or other consideration received does
22 not represent the value of the lease of the vehicle, "gross
23 receipts" means the reasonable value of the lease of the
24 vehicle. When the leasing of vehicles is made under a leasing
25 contract, the seller or lessor may elect to treat all receipts

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1 under those contracts as gross receipts as and when the payments
2 are actually received. "Gross receipts" also includes amounts
3 paid by members of any cooperative association or similar
4 organization for the lease of vehicles by that organization;

5 D. "hardship rental" means the lease of a vehicle by
6 the owner of a damaged or stolen vehicle to replace temporarily
7 that damaged or stolen vehicle;

8 [~~D.~~] E. "leasing" means any arrangement whereby, for
9 a consideration, a vehicle without a driver furnished by the
10 lessor or owner is employed for or by any person other than the
11 owner of the vehicle for a period of not more than six months;

12 [~~E.~~] F. "person" means any individual, estate,
13 trust, receiver, cooperative association, club, corporation,
14 company, firm, partnership, joint venture, syndicate or other
15 entity; and

16 [~~F.~~] G. "vehicle" means a passenger automobile
17 designed to accommodate six or fewer adult human beings that is
18 part of a fleet of five or more passenger automobiles owned by
19 the same person. "

20 Section 2. Section 7-14A-3.1 NMSA 1978 (being Laws 1993,
21 Chapter 359, Section 1) is amended to read:

22 "7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE
23 SURCHARGE. --

24 A. Except as provided in Subsection B of this
25 section, there is imposed a surcharge on the leasing of a

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1 vehicle to another person by a person engaging in business in
2 New Mexico if the lease is subject to the leased vehicle gross
3 receipts tax. The amount of this surcharge is two dollars
4 (\$2.00) for each day each vehicle is leased by the person. The
5 surcharge may be referred to as the "leased vehicle surcharge".

6 B. No surcharge shall be imposed on the lease of a
7 vehicle if the person leasing the vehicle can present evidence
8 satisfactory to the person leasing the vehicle that it is a
9 hardship rental. Satisfactory evidence shall include
10 certification or other evidence from an insurer, car repair shop
11 or law enforcement agency of the damage or theft."

12 Section 3. EFFECTIVE DATE. -- The effective date of the
13 provisions of this act is July 1, 1997.